

# **Exhibit 3**

STATE OF NEW YORK  
STATE EDUCATION DEPARTMENT

In the Matter of [REDACTED] and [REDACTED] X  
[REDACTED] on behalf of [REDACTED] and [REDACTED]  
[REDACTED], from action on the SHULAMITH  
SCHOOL FOR GIRLS regarding denial of application for  
religious exemption from immunizations  
-----X

AFFIDAVIT IN  
OPPOSITION

AFFIDAVIT OF MICHELLE FISHMAN IN OPPOSITION  
TO PETITIONER'S REQUEST FOR STAY

STATE OF Israel )  
COUNTY OF Jerusalem )

MICHELLE FISHMAN, being duly sworn, deposes and says:

1. I am the Executive Director of the Shulamith School for Girls (the "School"), and have been employed in such capacity since on or about August 3, 2017.<sup>1</sup>

2. I currently am overseas attending to a family medical emergency. However, I have been made aware of a certain "Verified Petition" (the "Petition") that has been filed in the above-captioned appeal (the "Appeal"). The School intends to retain counsel to defend its interests in the Appeal, but it has been impractical to do so (particularly in my absence) quickly enough to respond to that portion of the Petition that seeks interim relief, which, per the notice annexed to the Petition at least, ostensibly requires a response within three business days after service of the Petition. (I do not have either the legal background or the factual knowledge to determine whether proper service occurred, but just to be absolutely safe, I am assuming for now that it did.)

<sup>1</sup> For avoidance of confusion, it should be noted that within Shulamith and generally in my community, I am often called by my Hebrew name Malka, rather than Michelle.

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3. I have personally read the Verified Petition. Also, except where indicated otherwise, I have personal knowledge of my assertions in this Affidavit.

4. In the Verified Petition, Mr. and Mrs. [REDACTED] claim that the School's decision to deny their application for a religious exemption was "arbitrary and capricious." That is not the case; there is nothing in the Verified Petition that suggests otherwise. Indeed, as I read it, the Verified Petition itself confirms that the School's determination was correct.

5. To summarize the background facts, in light of recent measles outbreaks in various circles in which the School's students travel (including in other Jewish communities in the Tri-State area, as well as in Israel), and consistent with what was already School policy, the School redoubled its efforts to confirm that its students were fully up to date with their immunizations, as I understand to be required by New York law. As part of that, the School decided it would revisit any prior requests for medical or religious objections which, frankly, I believe had been taken at face value and, to my knowledge, had not been formally approved or disapproved by the School.

6. Therefore, on or about November 21, 2018, the School sent a letter to the [REDACTED] informing them that if they wished to continue to claim a religious exemption for their daughters, that a renewed formal request would be required, along with supporting documentation.

7. On or about December 3, 2018, the School received a response from the [REDACTED] which consisted of all of two documents: (a) a photocopy of their prior request for exemption made in 2015; and (b) a letter from someone that I assumed to be their community rabbi, whose statement, in its entirety, consisted of the following: "I have spoken to Ilana and

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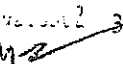


██████████ regarding their religious beliefs on vaccinations. I find the ██████████ family's religious beliefs to be sincere."

8. Contrary to the implication in the Verified Petition, I did not summarily ignore the response or deny the ██████████ renewed application. Rather, it was reviewed by each of the school's principals (elementary, middle school, and high school divisions) and shared with several of the School's board members. Moreover, each principal was made aware that the standard to apply was not whether they agreed with any particular belief or assertion of the ██████████, but whether or not they had shown it to be based on a "genuine and sincere religious belief" in opposition to vaccination.

9. After reviewing the renewed application, it was clear to everyone that the ██████████ had not demonstrated a genuine and sincere opposition that was based on their religion. Indeed, by their own admission both in the application and more recently in the Verified Petition, the ██████████ assert they are "fully observant in Judaism" and that Judaism "does not take a formal stance on vaccination." Thus, if the ██████████ have a sincerely held religious objection to vaccination, then by their own admission it would need to be based on some other religion than the one they profess to be devotees of, or the one that they in which they have voluntarily chosen to provide their daughters with several hours of instruction in each day by virtue of enrolling them in the School. This is simply not credible.

10. Moreover, the purportedly "supporting documentation" that they provided did nothing to advance their case. The alleged support came from a Rabbi Ben-Haim, who said nothing about any impropriety about vaccination under Jewish law. Indeed, I believe it very likely that Rabbi Ben-Haim ensures that his own children are themselves vaccinated. All Rabbi Ben-Haim said is that he *believes* the ██████████ to be sincere in their religious beliefs about

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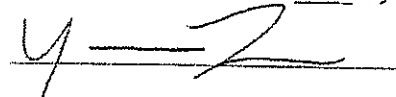
vaccination after having spoken to them. However, my understanding of New York law is that in the first instance it is the *School's* job to assess whether a professed religious believe is "genuinely and sincerely held," and not anyone else's.

11. In summary, and after careful consideration, I concluded that the [REDACTED] request for exemption demonstrated, at best, an objection to immunization based perhaps on their own moral views, or strongly held philosophical and personal beliefs (the sincerity of which I do not doubt), but certainly not ones based on their religious beliefs, which I understand to be the only valid grounds for a religious exemption.

Dated: December 30, 2018

  
Michelle Fishman

Sworn to before me this 30<sup>th</sup> day of December, 2018




Signature of Notary

Yoel Farkas

Print Name of Notary

Notary Number: 215234

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31-12-2018		APOSTILLE		31-12-2018	
(Convention de la Haye du 5 Octobre 1961)				ירושלים	
1. STATE OF ISRAEL		מדינת ישראל		1. מדינת ישראל	
This public document		מסמך ציבורי זה		2. מזהים בדי	
2. Has been signed by <b>Yoel Barkas</b> יואל ברקס		Advocate		3. מזהים בדי	
3. Acting in capacity of Notary		4. Bears the seal/stamp of the above Notary		4. מזהים בדי	
Certified		אשר		5. מזהים בדי	
5. At the Magistrates Court of Jerusalem		6. Date 31-12-2018		7. By an official appointed by Minister of Justice under the Notaries Law, 1976.	
8. Serial number		9. Seal/Stamp		10. Signature	
Gali Hodada גלית הודדה		Gali Hodada גלית הודדה		Gali Hodada גלית הודדה	
31-12-2018		31-12-2018		31-12-2018	
Jerusalem ירושלים		Jerusalem ירושלים		Jerusalem ירושלים	

Serial No. 1088/2018

מספר טידורי 1088/2018

## AUTHENTICATION OF SIGNATURE

## אימות חתימה

I, the undersigned, Yoel Farkas, Notary at 18/6 Ahad Ha'am Street Jerusalem hereby certify that on December 30, 2018 there appeared before me in Jerusalem, Ms. Michelle Fishman whose identity was proven to me by United States Passport Number 455404494 issued by the United States Department of State on May 11, 2009 and signed of her own free will the attached document marked "A".

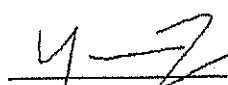
אני הח"מ יואל פרקש נטריון, מרחוב אחד העם 18/6 ירושלים מאשר כי ביום 30/12/2018 ניצבה לפני בירושלים גברת Michelle Fishman שזהותה הוכחה לי על פי דרכון ארה"ב מספר 455404494 שהוצא על ידי מחלקת המדינה של ארה"ב ביום 11/05/2009 וחתמה מרצונה החופשי על המסמך המצורף והמסומן באות "A".

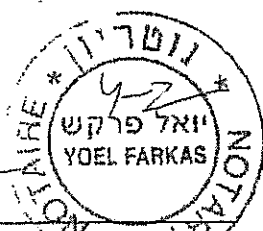
In witness whereof I hereby authenticate the signature of the aforementioned Ms. Michelle Fishman by my own signature and seal this 30<sup>th</sup> day of December, 2018.

ולראיה הנני מאשר את החתימה של גברת Michelle Fishman הנ"ל בחתימת ידי ובחותמי, היום 30/12/2018.

Notary Fee in the sum of 192 New Israeli Shekels including VAT paid.

שכר נטריון בסך 192 ש"ח כולל מע"מ שולם.

  
Signature

  
Notary's Seal

  
חותם הנוטריון

  
חתימה

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